

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:14-CV-217-BO

VARIETY STORES, INC.,                     )  
  Plaintiff,                     )  
  )  
  )  
  )  
  )  
WAL-MART STORES, INC.,                     )  
  Defendant.                     )

ORDER

This cause comes before the Court on several pending motions. A hearing was held in this matter in Elizabeth City, North Carolina, on June 14, 2016, to determine how the case should proceed. Per the hearing, the pending motions are decided as follows.

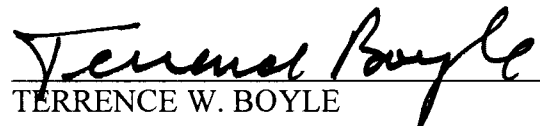
The motion for a hearing on disgorgement of profits is GRANTED. [DE 157]. Upon further consideration by the Court, the bench trial on this issue will be set for Tuesday, October 11, 2016.

The motion for a certificate of appealability is DENIED. [DE 164]. The law allows for interlocutory appeals when the district judge is “of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation.” 28 U.S.C. § 1292(b). The decision to certify an interlocutory appeal is soundly within the discretion of the district court. *See North Carolina ex rel. Howes v. W.R. Peele, Sr. Trust*, 889 F. Supp. 849, 852 (E.D.N.C. 1995). Here, the Court declines to certify.

The motions in limine are DENIED WITHOUT PREJUDICE. [DE 171, 179]. As discussed at the hearing, the parties are instructed to attempt to resolve any such issues before trial. If they cannot, the matters will be addressed as they arise at trial.

Finally, the motion to seal Docket Entry # 188 is GRANTED. [DE 189].

SO ORDERED, this 15<sup>th</sup> day of June, 2016.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE